IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 21053 of 2004

Between:

K. Kanakaiah S/o late Lakshmaiah
Superintendent (Retd) O/o District Leprosy Officer, R/o Karimnagar

..... PETITIONER

AND

1 The State of Andhra Pradesh rep by Principal Secretary to Government, H.M. & F.W. (VC.II.2) Department
Secretariat Buildings, Hyderabad
2 The Regional Director of Medical and Health Services Warangal.
3 The Accountant General (A&E) Andhra Pradesh, Hyderabad
4 The Deputy Director, District Treasury (formerly District Treasury Officer) Karimnagar
5 The District Leprosy Officer Karimnagar

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to

issue an appropriate Writ, order or direction, declaring the proceedings of the second respondent in Rc. No. A1/1457/2003 dated 13-08-2003 communicated on 02-09-2003 after retirement, the letter of the third respondent in No. P.10/IV/K/416/SP 295/2003-07 dated 11-08-2004, Memo No. 24736/VC.II.2/2003-3 HM & FW dated 05-08-2004 issued by the first respondent, the letter of the fourth respondent in Lr. No. F1/5732/2003 dated 23-08-2004 and G.O.Rt. No. 287 HM& FW dated 19-03-2004 as confirmed by the A.P. Administrative Tribunal in O.A. No. 5006 of 2004 dated 07-09-2004 as being arbitrary, illegal, unconstitutional and null and void and consequently direct the first respondent to quash the orders issued in G.O.Rt. No. 287 HM & FW dated 19-03-2004 and consequently direct the respondents to release the entire pension and other retiral benefits as sanctioned by the Accountant General, with interest at commercial rate for belated payment with exemplary costs and to accord all consequential and attendant benefits.

Counsel for the Petitioner: MR.Y.VENKAT SASTRY

Counsel for Respondent Nos.1,2,4 &5: GP FOR SERVICES I

Counsel for Respondent No.3:Mr.A.Rajashekar Reddy (SC for CG)

The Court at the stage of admission, made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed against the order, dated 07.09.2004 passed by the A.P. Administrative Tribunal in O.A.No.5006 of 2004, wherein the Government initiated a departmental enquiry after the retirement of the petitioner. However, the learned Tribunal after considering the matter, dismissed the O.A. at the stage of admission, against which the present Writ Petition has been filed.

2. Learned counsel for the petitioner submits that the order of the Tribunal is illegal and contrary to law and that the departmental proceedings Rc.No.A1/1457/2003,

dated 13.08.2003, initiated by the 2nd respondent are without jurisdiction. We are not persuaded to accept the contention raised by the learned counsel.

3. It is always open for the Government to conduct enquiry after the retirement in accordance with the Rules. But, however, the learned counsel for the petitioner now submits that only 75% of the provisional pension has been released and 25% of the pension was withheld, pending the departmental enquiry, and he also submits that the other departmental dues, such as, GIS, FBF, GPF, and encashment of earned leave have also been withheld. Under those circumstances, the learned counsel would submit that to the extent of the charge, the amount could be withheld and balance amount may be directed to be paid to the petitioner.

4. We are afraid we cannot accept the contention raised by the learned counsel.

5. It is not known as to what would be the result of the departmental enquiry. Under those circumstances, we find it appropriate to dispose of the Writ Petition with a direction that the enquiry initiated against the petitioner shall be completed within a period of three months from the date of receipt of a copy of this order.

7. However, it is made clear that if the departmental enquiry is not completed and final orders are not passed within the period stipulated above, the entire amount of retirement benefits withheld by the respondents shall be released to the petitioner, pending further departmental enquiry.

8. With the direction indicated above, the Writ Petition is accordingly disposed of. No costs.

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G. BIKSHAPATHY, J.

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P.S. NARAYANA, J.

Date: 31.01.2005

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To

1 The Principal Secretary to Government, State of Andhra Pradesh, H.M. & F.W. (VC.II.2) Department,
Secretariat Buildings, Hyderabad.
2 The Regional Director of Medical and Health Services Warangal.
3 The Accountant General (A&E) Andhra Pradesh, Hyderabad.
4 The Deputy Director, District Treasury (formerly District Treasury Officer) Karimnagar.
5 The District Leprosy Officer, Karimnagar.

6 2 CCs to the G.P. for Services-I, High Court of A.P., Hyderabad (OUT).

7 2 CD copies.